

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, February 10, 2016
Time: 9:20 A.M.
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 3084, Relating to Cesspools.

The Department of Taxation (Department) provides the following comments for your consideration on S.B. 3084.

S.B. 3084 disallows the tax credit for cesspool upgrade, conversion, or connection for taxpayers whose adjusted gross income exceeds certain amounts. The measure takes effect upon approval and applies to taxable years beginning after December 31, 2015.

The Department notes that the measure would disallow the tax credit for:

- 1) A taxpayer filing a single return or a married person filing separately with an adjusted gross income of \$100,000 or more;
- 2) A taxpayer filing as a head of household with an adjusted gross income of \$150,000 or more; or
- 3) A taxpayer filing a joint return or as a surviving spouse with an adjusted gross income of \$200,000 or more.

The Department notes that S.B. 3084 is not clear as to whether "adjusted gross income" (AGI) is meant to refer to a taxpayer's federal AGI or the State AGI, in order to determine eligibility for the tax credit. Because the State does not tax various income sources, including pension payments where the taxpayer did not contribute to the retirement fund, the Department believes that the federal AGI may more accurately reflect the ability of a taxpayer to afford a cesspool upgrade, conversion, or connection without the need for a tax credit, and requests that it be so clarified.

Thank you for the opportunity to provide comments.



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on SB3084
RELATING TO CESSPOOLS**

SENATOR JILL N. TOKUDA, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: February 10, 2016 Room Number: 211
Time: 9:20 AM

1 **Fiscal Implications:** This measure does not provide the resources necessary to implement the
2 rebate program.

3 **Department Testimony:** The Department appreciates the intent of this bill to limit the tax
4 credit to lower income households that perform a cesspool upgrade, conversion, or connection to
5 a sewer system. The Department does not oppose the bill proposing income limitations in
6 Section 235-16.5 (i), Hawaii Revised Statutes (HRS). However, the Department does not have
7 the resources or expertise regarding income qualification to implement eligibility determinations
8 as defined in the bill, as those determinations are usually made by other agencies.

9 Furthermore, the Department defers to the Department of Taxation and the Governor's Executive
10 Budget to address the fiscal implications that would be involved with the implementation of this
11 bill.

12 Thank you for the opportunity to testify on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Disallow Cesspool Credit Based on Income Level

BILL NUMBER: SB 3084

INTRODUCED BY: BAKER

EXECUTIVE SUMMARY: This bill would entirely disallow the credit for cesspool conversion for any taxpayer with adjusted gross income over certain levels. This measure would contribute to a “tax cliff” for couples reaching \$200,000 AGI, that could result in the next \$1 in income subjecting the couple to massive additional state tax.

BRIEF SUMMARY: Amends HRS section 235-16.5 to provide that the income tax credit for cesspool upgrade, conversion, or connection will be entirely disallowed for taxpayers at or above the following adjusted gross income (AGI) levels:

- \$100,000 for a single taxpayer or married filing separately.
- \$150,000 head of household.
- \$200,000 married filing jointly, or as a surviving spouse.

EFFECTIVE DATE: Tax years beginning after December 31, 2015.

STAFF COMMENTS: Act 120, SLH 2015, enacted a temporary income tax credit, expiring on December 31, 2020, for 100% of the qualified costs of a cesspool upgrade, conversion, or connection, up to \$10,000. The recitals in the Act explain the problem addressed:

The legislature finds that the State's streams, groundwater, and ocean are being harmed by water pollution from nonpoint contamination sources that flow off the land directly, rather than through pipes or ditches. Cesspools constitute a nonpoint contamination source of grave concern. These substandard systems are essentially holes in the ground that discharge raw, untreated sewage. Groundwater, drinking water sources, streams, and the ocean are contaminated by cesspool pollution from systems that do not treat wastewater, but merely dispose of it.

The legislature further finds that cesspools in Hawaii release approximately 55,000,000 gallons of untreated sewage into the ground each day. There are approximately 90,000 cesspools in the State, with nearly 50,000 located on Hawaii island, approximately 14,000 on Kauai, over 12,000 on Maui, over 11,000 on Oahu, and over 1,400 on Molokai. Reducing the number of cesspools in the State is a matter of great importance. The legislature additionally finds that cesspools near drinking water wells or within two hundred feet of surface waters and cesspools that are connected to multiple residential dwellings present a higher risk of harm to public health and the environment and should be prioritized by the department of health for upgrade. The department of health indicates that there are approximately 6,860 cesspools in those priority locations.

Priority should be given to cesspool owners who request financial assistance to upgrade, convert, or connect cesspools that: affect public drinking water wells; are within two hundred feet of the shoreline, streams, or wetlands; or are connected to multiple residential dwellings.

As we noted at the time, this credit was given without any consideration of the taxpayer's need for tax relief. This bill now seeks to correct this, but does so in somewhat ham-fisted fashion with an all-or-nothing approach.

The legislature may want to consider the following if it is now concerned about the cost of the credit:

- Phasing in the disallowance, so the “tax cliff” effect upon taxpayers is mitigated.
- Changing the trigger to federal AGI rather than Hawaii AGI, as is used for other income level disallowance provisions. The reason for this is that there is no requirement for the taxpayer to be a resident, and a nonresident may have substantial income from sources outside Hawaii.
- Allowing for prospective application. A retroactive disallowance, which is possible under the bill as it is now written, would unfairly penalize taxpayers who have already contracted and paid for the work in reliance on the credit.
- Allowing for sunset of the disallowance when the credit sunsets on December 31, 2020.

Digested 2/6/16

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: dale@hicattle.org
Subject: *Submitted testimony for SB3084 on Feb 10, 2016 09:20AM*
Date: Tuesday, February 09, 2016 9:47:59 AM

SB3084

Submitted on: 2/9/2016

Testimony for WAM on Feb 10, 2016 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Dale Sandlin	Hawaii Cattlemens Council	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 10, 2016

HEARING BEFORE THE SENATE WAYS AND MEANS

TESTIMONY ON SB 3084
RELATING TO CESSPOOLS
Room 211
9:20 AM

Aloha Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

HFB supports HB 3084.

Last session HFB strongly supported HB 1140 that was later passed and enacted. The intent of that law was to protect the quality of Hawaii's near shore waters and drinking water supplies, recognizing that cesspools which pose a risk to the ocean, surface, or ground water should be converted to septic systems, or where available, a connect to a county sewer treatment system.

Because the cost to upgrade is substantial, and not every cesspool owner who wanted to convert would be able to afford it, we believed that Hawaii could accomplish these conversions more quickly if owners have assistance through tax incentives.

However, due to limited state funds, HFB supports this bill that limits the tax credit for cesspool upgrade, conversion, or connection for taxpayers whose adjusted gross income exceeds certain amounts.

Thank you for the opportunity to testify in support of this bill.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: gottlieb@hawaii.rr.com
Subject: *Submitted testimony for SB3084 on Feb 10, 2016 09:20AM*
Date: Tuesday, February 09, 2016 9:45:43 AM

SB3084

Submitted on: 2/9/2016

Testimony for WAM on Feb 10, 2016 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Ponoholo Ranch Limited	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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